

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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JMH 400 DOE  
[REDACTED]

Buffalo, New York 14127

Plaintiff,

vs.

THE DIOCESE OF BUFFALO, N.Y.  
795 Main Street  
Buffalo, New York 14203

Defendant.

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**SUMMONS**

Index No.:

Filed in the  
Erie County Clerk's  
Office on: \_\_\_\_\_

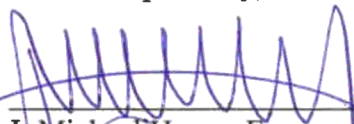
TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED, to answer the complaint in this action, and to serve a copy of your answer, or, if the summons is not served with a complaint, to serve a notice of appearance, on the Plaintiff's attorney within twenty (20) days after service of this summons, exclusive of the day of service, or within thirty (30) days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Erie County is designated as the place of trial on the basis of the residence of the Plaintiff who resides in Erie County, New York.

DATED:        BUFFALO, NEW YORK  
                 November 14, 2019

Yours Respectfully,

  
\_\_\_\_\_  
J. Michael Hayes, Esq.  
Law Office of J. Michael Hayes  
*Attorneys for Plaintiff*  
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Telephone: (716) 852-1111

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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JMH 400 DOE,

Plaintiff,

vs.

THE DIOCESE OF BUFFALO, N.Y.,

Defendant.

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**COMPLAINT**  
**JURY TRIAL**  
**DEMANDED**

Index No.:

The Plaintiff, JMH 400 DOE, by her attorney, J. MICHAEL HAYES, ESQ. for her complaint against the Defendant, THE DIOCESE OF BUFFALO, N.Y., herein alleges:

**PARTIES**

1. Presently and at all times herein mentioned, Plaintiff, JMH 400 DOE, is a resident of the County of Erie and State of New York.

2. Upon information and belief, presently and at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., is a domestic religious corporation authorized and existing by virtue of Article 5 of the Religious Corporation Law of the State of New York with offices for the transaction of business located in the City of Buffalo, County of Erie and State of New York.

3. Plaintiff asserts trial preference pursuant to CPLR 3403(a)(7), as added by Section 4 of the Child Victims Act.

**JURISDICTION**

4. The Court has jurisdiction pursuant to CPLR 301 as Defendant's principal place of business is in New York.

5. Venue is proper pursuant to CPLR 503 as Plaintiff's residence is in Erie County. Additionally, Defendant's principal place of business is in Erie County.

**FACTS COMMON TO ALL CLAIMS**

6. Upon information and belief, at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., owned Nativity of Our Lord School, located at 4414 South Buffalo Street, Orchard Park, New York 14127.

7. Upon information and belief, at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., by and through the Bishop of the Diocese of Buffalo, managed, operated and/or controlled the Nativity of Our Lord School, including, *inter alia*, the hiring of employees, employee supervision, employee assignments and monitoring the student body.

8. Upon information and belief, at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., contracted with lay parents of children to attend Nativity of Our Lord School in exchange for monetary compensation.

9. Upon information and belief, at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., agreed and assumed the responsibility to provide schooling, education and a safe and protective environment for the infant school attendees.

10. Upon information and belief, at all times herein mentioned, Sister Paula Marie Notarthomas ("Sister Notarthomas") was a Roman Catholic nun and an officer, agent, representative, servant and/or employee of Defendant, THE DIOCESE OF BUFFALO, N.Y.

11. Upon information and belief, Sister Notarthomas sexually abused, harassed, assaulted and/or molested Plaintiff, JMH 400 DOE.

12. Upon information and belief, at all times herein mentioned, Sister Notarthomas was acting within the scope of her agency, servitude and/or employment with Defendant, THE DIOCESE OF BUFFALO, N.Y.

13. Upon information and belief, at all times herein mentioned, Sister Notarthomas was under the direction, supervision and/or control of Defendant, THE DIOCESE OF BUFFALO, N.Y.

14. Upon information and belief, at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., placed, controlled and/or employed Sister Notarthomas as Principal of Nativity of Our Lord School.

15. Upon information and belief, at all relevant times herein, Bishop Edward D. Head was employed by Defendant, THE DIOCESE OF BUFFALO, N.Y.

16. Upon information and belief, at all times herein mentioned, Bishop Edward D. Head was an officer, agent, representative, servant, supervisor and/or employee of Defendant, THE DIOCESE OF BUFFALO, N.Y.

17. Upon information and belief, at all times herein mentioned, Bishop Edward D. Head was responsible for the supervision, direction and/or control of other officers, agents, representatives, servants and/or employees, including Sister Notarthomas, of Defendant, THE DIOCESE OF BUFFALO, N.Y.

18. Upon information and belief, at all times herein mentioned, Bishop Edward D. Head was Sister Notarthomas's superior at Nativity of Our Lord School.

19. Upon information and belief, at all times herein mentioned, Bishop Edward D. Head was responsible for Sister Notarthomas's supervision, the monitoring of her actions and interactions with students at the Nativity of Our Lord School.

20. Upon information and belief, at all times herein mentioned, Sister Notarthomas's actions were monitored, facilitated, contributed to and assisted by and through Defendant's employee, Bishop Edward D. Head.

21. Plaintiff, JMH 400 DOE, was under eighteen (18) years of age at all relevant times mentioned herein.

22. Upon information and belief, Plaintiff was a student at Nativity of Our Lord School in or around 1973-1976, a school within and operating under the auspices of Defendant, THE DIOCESE OF BUFFALO, N.Y.

23. Upon information and belief, at all relevant times, Sister Notarthomas was working and/or volunteering at Nativity of Our Lord School, within and under the control and auspices of Defendant, THE DIOCESE OF BUFFALO, N.Y.

24. Upon information and belief, through her positions at, within, or for the Defendant, THE DIOCESE OF BUFFALO, N.Y., Sister Notarthomas was put into direct contact with infant Plaintiff.

25. Upon information and belief, it was under such circumstances that infant Plaintiff came to be under the direction and/or control of Sister Notarthomas, who used her position of authority over Plaintiff to sexually abuse and harass her.

26. Upon information and belief, at all relevant times, Sister Notarthomas, while acting as a nun, administrator, counselor, officer, employee, agent, servant and/or volunteer of Defendant, THE DIOCESE OF BUFFALO, N.Y., did sexually assault, abuse and/or had sexual contact with infant Plaintiff.

27. Sister Notarthomas did have bodily contact and touching with infant Plaintiff, JMH 400 DOE, in, *inter alia*, touching Plaintiff's breasts.

28. Upon information and belief, Sister Notarthomas's contact with Plaintiff, JMH 400 DOE, was extreme, outrageous, subjectively offensive to Plaintiff and objectively offensive to a reasonable person in the same or similar situation.

29. Upon information and belief, Sister Notarthomas intended to make such physical and sexual contact without the consent of infant Plaintiff, JMH 400 DOE, and did, in fact, make such contact without Plaintiff's consent.

30. Plaintiff, JMH 400 DOE, was unable to give consent to engage in Sister Notarthomas's sexual molestation as Plaintiff was a minor at all relevant times.

31. Upon information and belief, Sister Notarthomas's molestation of Plaintiff occurred at, in and/or around Defendant's premises, Nativity of Our Lord School in Orchard Park, New York.

32. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., through its officer, agent, representative, servant and/or employee Sister Notarthomas, sexually molested infant Plaintiff, JMH 400 DOE.

33. Upon information and belief, at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, representatives, servants and/or employees, knew and/or reasonably should have known of Sister Notarthomas's proclivities toward molestation and sexual assault of young children.

34. Upon information and belief, at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, representatives, servants and/or employees, knowingly condoned, and/or covered up inappropriate and unlawful sexual activities of Sister Notarthomas involving minors.

35. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, representatives, servants and/or employees, had the responsibility to monitor, supervise, direct, control and/or be aware of the actions of nuns serving at Nativity of Our Lord School.

36. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, representatives, servants and/or employees, had a duty not to aid a pedophile such as Sister Notarthomas, by assigning, supporting, maintaining and/or appointing her to a position with access to minors and/or physically providing her with infant victims.

37. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, representatives, servants and/or employees, did violate their duty to the public generally and minors specifically, including infant Plaintiff, JMH 400 DOE, by knowingly exposing and physically providing them to Sister Notarthomas and in providing her with an unsupervised locus in which to physically abuse infants.

38. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, representatives, servants and/or employees, individually, jointly and/or severally, violated various New York statutes in effect at all relevant times mentioned herein including, but not limited to, N.Y. Soc. Serv. Law §§ 413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

39. Plaintiff, JMH 400 DOE, has suffered severe personal physical and psychological injuries and damages as a result of Sister Notarthomas's actions occasioned, facilitated, permitted and/or condoned by Defendant, THE DIOCESE OF BUFFALO, N.Y., as well as other damages related thereto, as a result of her childhood sexual abuse consistent with offenses as defined by Article 130 of the Penal Law.

40. Plaintiff asserts her revival action pursuant to the New York State Child Victims Act, CPLR § 214-g.

41. Upon information and belief, the limitation of liability set forth in CPLR Article 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR 1602.

42. Plaintiff, JMH 400 DOE, demands a jury trial on all claims.

**AS AND FOR A FIRST CAUSE OF ACTION**

43. Plaintiff repeats and realleges those allegations set forth in Paragraphs “1” through “42” of the Complaint with the same force and effect as fully set forth herein at length.

44. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., through its Bishop, officers, agents, representatives, servants and/or employees, knew and/or reasonably should have known, that Sister Notarthomas posed a threat of sexual abuse to children.

45. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, servants, representatives and/or employees knew, should have known or had reason to know of Sister Notarthomas’s abusive behavior prior to her sexual exploitation and abuse of Plaintiff.

46. Upon information and belief, neither Defendant, THE DIOCESE OF BUFFALO, N.Y., nor its Bishop reported Sister Notarthomas’s sexual abuse(s) to civil or criminal authorities.

47. Upon information and belief, at all times herein mentioned, Defendant, THE DIOCESE OF BUFFALO, N.Y., and its Bishop, an officer, agent, servant, representative, and/or employee of Defendant, THE DIOCESE OF BUFFALO, N.Y., knew or should have known Sister Notarthomas was sexually molesting the student(s) at Nativity of Our Lord School.



48. Upon information and belief, at all times hereinafter mentioned, Sister Notarthomas's actions were facilitated, contributed to, condoned and assisted by Defendant, THE DIOCESE OF BUFFALO, N.Y., and its Bishop, an officer, agent, servant, representative, and/or employee of Defendant, THE DIOCESE OF BUFFALO, N.Y.

49. Upon information and belief, Bishop Edward D. Head, as well as Defendant, THE DIOCESE OF BUFFALO, N.Y., its officers, agents, representatives, servants and/or employees, had knowledge of Sister Notarthomas's sexual abuses and proclivities.

50. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, representatives, servants and/or employees, did not meet its obligation and responsibility to protect Plaintiff and other infant parishioners and students prior to Sister Notarthomas's contact with Plaintiff, JMH 400 DOE.

51. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, representatives, servants and/or employees, knowingly, willfully and intentionally concealed the conduct of Sister Notarthomas and protected her from prosecution while simultaneously exposing her and other sexual predators to infants, including Plaintiff, JMH 400 DOE.

52. Upon information and belief, Defendant's knowledge of Sister Notarthomas's abuses and subsequent continued employment of her by Defendant, THE DIOCESE OF BUFFALO, N.Y., allowed caused and permitted Sister Notarthomas to continue her crimes and victimization of minors, including those perpetrated against Plaintiff, JMH 400 DOE.

53. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., kept files of clergy, nuns and church employees who they knew or should have known to have engaged in sexual abuse in a separate and secret records dossier hidden from outsiders, including

employees of Defendant, THE DIOCESE OF BUFFALO, N.Y., as well as parishioners, civil authorities and criminal authorities.

54. Upon information and belief, the Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, representatives, servants and/or employees, did knowing and intentionally conspire to conceal and cover up Sister Notarthomas and other clergy's criminal abuses.

55. Upon information and belief, a former secretary of Bishop Richard Malone, acting as a "whistleblower" and an officer, agent, servant, representative, and/or employee of Defendant, THE DIOCESE OF BUFFALO, N.Y., publicly disclosed limited personnel files and other documentation detailing predatory behaviors and sex abuse by clergy and nuns.

56. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., had only acknowledged accusations against forty-two (42) clergy; the whistleblower's findings revealed that a truer number of known clergies alone accused of abuse was at least two-hundred two (202).

57. Upon information and belief, the actions of Defendant, THE DIOCESE OF BUFFALO, N.Y., and its Bishops, were extreme, willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of Plaintiff.

58. As a result of the foregoing, including the aforementioned negligence, gross negligence, intentional concealment of abuse, Plaintiff, JMH 400 DOE, sustained severe personal physical and psychological injuries, medical expenses and lost wages, which have negatively harmed and impacted her over the entire course of her life all to her damage in a sum in excess of the jurisdictional limits of all the lower courts of the State of New York together with such other punitive and exemplary damages as may be appropriate.

**AS AND FOR A SECOND CAUSE OF ACTION**

59. Plaintiff repeats and realleges those allegations set forth in Paragraphs “1” through “58” of the Complaint with the same force and effect as fully set forth herein at length.

60. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., through its Bishop, officers, agents, representatives, servants and/or employees, negligently hired, retained, directed, and/or supervised Sister Notarthomas when they knew or should have known that she posed a threat of sexual abuse to children.

61. Upon information and belief, at all relevant times, the sexual abuse of children by adults, particularly Sister Notarthomas, in the Nativity of Our Lord School environment was foreseeable.

62. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., entered into an express and/or implied duty and/or contract to provide a reasonably safe environment for Plaintiff, JMH 400 DOE, and it assumed the duty to protect and care for her by establishing, staffing, and/or operating Nativity of Our Lord School, encouraging the enrollment and instruction of Plaintiff, accepting her as a student, and holding out the school as a safe environment for learning and engaging in youth activities.

63. Upon information and belief, at all times herein mentioned and prior thereto, Defendant, THE DIOCESE OF BUFFALO, N.Y., and its Bishop, caused, permitted and facilitated Sister Notarthomas’s continued access to children, including Plaintiff, JMH 400 DOE.

64. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., and its Bishop, knew and/or should have known that Sister Notarthomas and other employees targeted infants for child sexual abuse, failed to stop or report these crimes and abuses, and

withheld information of same from both criminal and civil authorities as well as the victims' families.

65. Upon information and belief, Plaintiff, JMH 400 DOE, has incurred medical expenses for her own care and treatments over the course of her lifetime for harm caused and/or contributed to by the sexual assault perpetrated upon her by Defendant, THE DIOCESE OF BUFFALO, N.Y., through its officer, agent, representative, servant and/or employee, Sister Notarthomas.

66. Upon information and belief, Sister Notarthomas sexually assaulted, sexually abused and/or had sexual contact with Plaintiff, JMH 400 DOE, on the premises of Defendant, THE DIOCESE OF BUFFALO, N.Y.

67. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., its Bishop, officers, agents, representatives, servants and/or employees, were on notice of Sister Notarthomas's improper and inappropriate actions with other minor children, and knew or should have known of Sister Notarthomas's improper and inappropriate actions with Plaintiff, JMH 400 DOE.

68. Defendant, THE DIOCESE OF BUFFALO, N.Y., owed a duty of care to all persons, including Plaintiff, who were likely to come within the influence and contact of Sister Notarthomas in her role in Defendant's employ and to ensure that Sister Notarthomas did not abuse her authority under Defendant's employ.

69. As a result of the foregoing, Plaintiff, JMH 400 DOE, sustained severe personal physical and psychological injuries, medical expenses and lost wages, which have negatively harmed and impacted her over the entire course of her life all to her damage in a sum in excess of

the jurisdictional limits of all the lower courts of the State of New York together with such other punitive and exemplary damages as may be appropriate.

**AS AND FOR A THIRD CAUSE OF ACTION**

70. Plaintiff repeats and realleges those allegations set forth in Paragraphs “1” through “69” of the Complaint with the same force and effect as fully set forth herein at length.

71. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., and its Bishop, officers, agents, representatives, servants and/or employees, knew or reasonably should have known that the failure to properly monitor, control, direct, advise, supervise and hire Sister Notarthomas, who sexually abused Plaintiff, would and did proximately result in physical and severe emotional distress to Plaintiff.

72. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., and its Bishop, officers, agents, representatives, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct against Plaintiff would and did proximately result in physical and severe emotional distress to Plaintiff.

73. Upon information and belief, Defendant, THE DIOCESE OF BUFFALO, N.Y., had the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff, JMH 400 DOE, being sexually abused by Sister Notarthomas.

74. Upon information and belief, despite said knowledge, power and duty, Defendant, THE DIOCESE OF BUFFALO, N.Y., and its Bishop, failed to act so as to stop, prevent and prohibit the improper conduct that resulted in Sister Notarthomas sexually abusing Plaintiff, JMH 400 DOE.

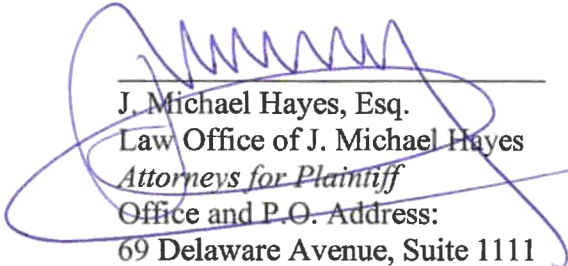
75. As a result of the foregoing, Plaintiff, JMH 400 DOE, sustained severe personal physical and psychological injuries, medical expenses and lost wages, which have negatively

harm and impacted her over the entire course of her life all to her damage in a sum in excess of the jurisdictional limits of all the lower courts of the State of New York together with such other punitive and exemplary damages as may be appropriate.

WHEREFORE Plaintiff demands judgment in excess of the jurisdictional limits of all the lower courts of the State of New York State of New York together with such other compensatory, punitive and exemplary damages, costs, disbursements and for such other relief as is just and proper and equitable.

DATED: BUFFALO, NEW YORK  
November 14, 2019

Yours Respectfully,



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*Attorneys for Plaintiff*  
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